

Reply to OA of July 7, 2003

U.S. Patent Application Serial No. **09/555,644**
Response dated September 11, 2003
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claims 1-4 were rejected under 35 USC §102(b) as being anticipated by Rudnic et al (U.S. Patent No. 5,430,021) or Gaunt et al (U.S. Patent No. 3,806,603); claims 1-3 were rejected under 35 USC §102(b) as being anticipated by Junge (U.S. Patent No. 4,487,786), Mikkelsen et al (U.S. Patent No. 5,516,536), Feuge et al (U.S. Patent No. 2,745,749) or GB 2015315; claims 1-3 and 6 were rejected under 35 USC §102(b) as being anticipated by EP 0465801.

Claims 1-3 have been canceled and the rejection of these claims has become moot.

Amended claim 4 and its dependent claims 5 and 6 recite, among other things, "wherein said composition is in the form of powder mixed with and **adhered to silicon dioxide**." The cited references do not teach or suggest such limitation.

For at least these reasons, claims 4-6 patentably distinguish over the cited references.

Rejections under 35 USC §103(a)

Claims 7-10 were rejected under 35 U.S.C. §103(a) as being obvious over EP 0465801 in view of JP 4027355 and further in view of EP 0374301 (for claim 10 only).

In so doing, the Examiner alleged as follows:

EP 0465801 differs from applicant's claimed invention in that there is no direct disclosure to applying a coating and/or sheet to the frozen food product that has been coated with acetylated monoglyceride. There is

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It would have been obvious . . . to use the teaching of JP4027355 A1 to coating to make deep-fried foods, as motivation to apply such a coating to frozen food that has been precoated with acetylated monoglyceride as taught by EP 0465801.

Amended claim 7 recites "a food substrate; and a **first coating and/or a sheet covering said food substrate**, wherein a **second coating capable of maintaining a low vapor permeability after cooking by heating and during freeze-preservation of the food**, is interposed between the food substrate and the coating and/or sheet , and said frozen food is **freeze-preserved after cooking by heating**."

EP 0465801 discloses an edible moisture barrier coating. Even assuming, *arguendo*, that the edible moisture barrier coating corresponds to the second coating, EP 0465801 does not teach or suggest the "first coating and or a sheet covering said food substrate." Also, the food is NOT **freeze-preserved after cooking by heating**. Acetylated monoglycerides has a melting point of 40-50 °C, that means that acetylated monoglycerides melt in heating. Therefore, a person of ordinary skill in the art would not be motivated heating the coating of acetylated monoglycerides disclosed in EP 0465801.

JP 4027355 discloses food capable of providing a fried-food-like food by thermal cooking in an oven, a microwave oven, etc., which is coated by a batter composition containing fats and oils, a milk protein and water in a specific proportion and then coating the coated material with a grain flour-containing

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flour-containing substance. Neither of the coating of batter composition or the coating of a grain flour-containing substance is "capable of maintaining a low vapor permeability after cooking by heating and during freeze-preservation of the food."

The Examiner appears to allege that it is obvious to coat the food with the edible moisture barrier coating, disclosed by EP 0465801, with a batter composition discloses by JP 4027355. In EP 0465801, however, the edible moisture coating is applied to almonds to be mixed with ice cream. There is no suggestion or motivation to apply the a coating of batter composition and a coating of a grain flour-containing substance to the food like almonds. As already mentioned, acetylated monoglycerides has a melting point of 40-50 °C, which means that acetylated monoglycerides melt in heating. Therefore, a person of ordinary skill in the art would not be motivated heating the coating of acetylated monoglycerides disclosed in EP 0465801.

EP 0374301 has been cited for allegedly disclosing art to add moisture absorbent to food package. Such disclosure, however, does not remedy the deficiencies of EP 0465801 and JP 4027355.

Thus, EP 0465801, JP 4027355 and EP 0374301 do not teach or suggest, among other things, "a food substrate; and a **first coating and/or a sheet covering said food substrate**, wherein a **second coating capable of maintaining a low vapor permeability after cooking by heating and during freeze-preservation of the food**, is interposed between the food substrate and the coating and/or sheet.

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According to the present invention, the frozen food is freeze-preserved after cooking by heating. The frozen fried food is substantially free from the occurrence of transfer of moisture from a food substrate to first coating. Not only immediately after the food has been frozen, but also when the food is freeze preserved at a comparatively high temperature and after the food has been freeze-preserved for a long period of time, the frozen fried food is capable of preventing a decrease in crispness of the coating after cooking by a microwave oven.

For at least these reasons, claim 7 patentably distinguishes over the cited references, EP 0465801, JP 4027355 and EP 0374301. Claims 8-10, depending from claim 7, also patentably distinguish over the cited references for at least the same reasons.

Claims 7-10 were rejected under 35 U.S.C. §103(a) as being obvious over GB 2015315 in view of EP 0374301 (for claim 10 only).

Admitting that there is no direct teaching of freezing the produced glazed donuts, the Examiner alleged that it would have been obvious to freeze the produced glazed donuts since freezing such foods is notoriously well known in the art.

Amended claim 7 recites "wherein a second coating capable of maintaining a low vapor permeability **after cooking by heating and during freeze-preservation** of the food, is interposed

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between the food substrate and the coating and/or sheet, and said frozen food is **freeze-preserved after cooking by heating.**"

GB 2015315 discloses an edible composition suitable for forming a moisture barrier on a relatively porous surface of baked or fried **bakery food products** for inhibiting moisture migration through the surface. Even assuming the "glazing or icing" corresponds to the first coating, the first coating is applied after baking or frying.

Thus, GB 2015315 does not teach or suggest, among other things, "wherein a second coating capable of maintaining a low vapor permeability **after cooking by heating and during freeze-preservation** of the food, is interposed between the food substrate and the coating and/or sheet, and said frozen food is **freeze-preserved after cooking by heating.**"

For at least these reasons, claim 7 patentably distinguishes over the cited references, GB 2015315 and EP 0374301. Claims 8-10, depending from claim 7, also patentably distinguish over the cited references for at least the same reasons.

In view of the aforementioned amendments and accompanying remarks, the claims, as amended, are in condition for allowance, which action, at an early date, is requested.

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If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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